



Australian Government

Australian Law Reform Commission

Priorities for Law Reform

Potential Topic Six: Tax law

The information below describes one of seven potential law reform topics proposed by the ALRC for comment by stakeholders and the general public as part of its Priorities for Law Reform project.

Through an online survey, individuals and organisations will have the opportunity to provide comments on potential law reform topics and make their own suggestions about areas of law they believe are in need of reform. For more information about the project, please visit <https://www.alrc.gov.au/inquiries/where-next-law-reform>.

Following a recent White Paper on tax reform, the Australian Government Treasury concluded that ‘there is evidence that the economic costs of Australia’s tax system are higher than they need to be’. In particular, there are concerns that the current tax system does not reflect the modern (and future) economy that operates in a dynamic global marketplace across new digital and technological frontiers.

Some of these problems are routed in the federal structure established in the constitution. Australia’s current tax system raises over \$525 billion annually — primarily through personal income tax and company tax. The Commonwealth Government collects 81% of taxes while the states and territories deliver the majority of public services, including in the health, education, and transport sectors. Roughly 45% of state and territory revenue comes from the Commonwealth Government. This creates a vertical fiscal imbalance whereby the taxing authority and spending responsibilities are not properly aligned. This creates economic inefficiency and reduces transparency.

The issues in need of tax reform extend beyond the constitution. For example, charitable tax concessions are one area of tax law ripe for reform. Under Australian tax law some not-for-profit organisations benefit from tax concessions, a policy tool intended to provide support for activities that generate a community benefit. However, a number of reviews — including the *Australia’s Future Tax System Review* and the Australian Productivity Commission’s *Contribution of the Not-for-Profit Sector Research Report* — have identified tax concessions as inefficient, complex, and administratively costly. Recent discussion has also highlighted concern with a number of categories of NFPs, and specifically how the legislation defines ‘charity’.

Law reform may be required to simplify the tax system, improve its fairness, harmonise and modernise definitions, ensure accountability and compliance, and improve overall effectiveness.